

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3707 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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BALDEVBHAI RANCHHODBHAI PATEL

Versus

DIST MAGISTRATE  
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Appearance:

MR SHITAL R PATEL for Petitioner  
MR VM PANCHOLI for Respondent No. 1, 2  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/03/2000

ORAL JUDGEMENT

1. Twofold contentions have been raised by the learned counsel for the petitioner in this special civil application challenging the validity, legality, propriety and correctness of the orders of the two authorities below. First contention is that the appellate authority

has not given any reason not to accept the manifold grounds raised by the petitioner in the memo of appeal filed by him against the order of the Sub-Divisional Magistrate, Viramgam Division, Ahmedabad. Second contention is raised that the criminal case is pending and until the matter is decided finally, it is too difficult to accept that the petitioner has misused the fire arms.

2. In contra, learned counsel for the respondents submitted that the authority has power either to suspend or revoke the arms licence under section 17 of the Arms Act, 1959. Referring to clause (b) of subsection 3 of section 17 of the Arms Act, 1959, he urges that the licensing authority in this case was satisfied that it was necessary for the security of public peace or public safety to revoke the licence. It is a case where the fire arms have been misused by the petitioner and if he is permitted to retain the same then there is all likelihood that the fire arms may be misused again and again. He though frankly conceded that the appellate authority has not passed a speaking order.

3. In this case, both the counsel appearing for the parties are unable to say what ultimately turned out in the criminal case. Be that as it may.

4. Having heard the learned counsel for the parties, I am satisfied that the order passed by the appellate authority is a cryptic order. The memo of appeal is on the record of this special civil application and therefrom I find that the petitioner raised manifold grounds including some of the grounds which prima-facie appears to be substantial grounds on merits. Whether the ground has to be accepted or not it is different matter but where a contention has been raised it is necessary for the authority to deal with the same. Moreover, this contention of the counsel for the petitioner that so long as the criminal case is not decided it cannot be taken to be a case of misuse of fire arms deserves acceptance, and at the most it may be a case for suspension of the licence and not for revocation of the same is not without substance. The orders of the authorities below have been stayed by this court long back and for all these years the stay order is continuing. The interest of justice will be served in case this matter is sent back to the appellate authority for deciding the appeal afresh in accordance with law after hearing the parties.

5. In the result, this special civil application succeeds and the same is allowed and the order of the

Additional District Magistrate, Ahmedabad dated 5-4-1989  
in L.B. Appeal No. 213 of 1988 is quashed and set  
aside. The said authority is directed to decide the  
matter afresh in accordance with law after hearing the  
parties. Rule is made absolute accordingly with no order  
as to costs.

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